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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,775	10/15/2001	Dianne D. Mueller	US20010143	3779
173 7590 01/26/2009 WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085				
EXAMINER				
CIRIC, LJILJANA V				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
01/26/2009		PAPER		

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DIANNE D. MUELLER, RALPH TATE JR., BRENT A. JUNGE,
JOSEPH L. COLEMAN, JAN M. WATSON, and STEVEN R. CAWLEY

Appeal 2008-2706
Application 09/977,775
Technology Center 3700

Decided: January 26, 2009

Before: JENNIFER D. BAHR, LINDA E. HORNER, and
STEVEN D.A. MCCARTHY, *Administrative Patent Judges.*

BAHR, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Dianne D. Mueller et al. (Appellants) originally appealed under 35 U.S.C. § 134 from the Examiner's decision rejecting claims 1-11 and 14-20. On page 3 of the Answer, the Examiner withdrew the rejections of claims 5-11, 14, 15, 19, and 20. Accordingly, this appeal involves only

claims 1-4 and 16-18. The Examiner indicated on page 2 of the Answer that claims 5-15 and 19-26, the only other claims pending in the application, are objected to as depending from a rejected base claim, but are otherwise allowable. We have jurisdiction over this appeal under 35 U.S.C. § 6 (2002).

The Invention

Appellants' claimed invention is directed to "an oven in combination with a refrigeration unit for cooling the cooking chamber to permit the refrigerated storage of food within the cooking chamber until it is desired to begin the cooking of the food." Specification, para. 1.

Claim 1, reproduced below with italics added to highlight the limitation at issue in this appeal, is the only independent claim involved in this appeal.

1. A combination appliance for cooling and cooking a food item, comprising:

a frame comprising a cooking chamber and a refrigeration module chamber, and the cooking chamber having a first access opening through which access to the interior of the cooking chamber is provided;

a door moveably mounted to the frame for movement between an open position where the first access opening is uncovered and a closed position where the first access opening is covered;

a heat element disposed within the cooking chamber to selectively provide heat to the cooking chamber;

an inlet duct extending between the refrigeration module chamber and the cooking chamber, the inlet duct having an inlet in communication with the refrigeration module

chamber and an outlet in communication with the cooking chamber;

a return duct extending between the refrigeration module chamber and the cooking chamber, the return duct having an inlet in communication with the cooking chamber and an outlet in communication with the refrigeration module chamber;

a refrigeration module comprising a compressor, condenser, evaporator, and base on which the compressor, condenser, and evaporator are mounted to form a module, and an insulated housing overlying the evaporator to thermally isolate the evaporator from the condenser, the insulated housing having an inlet and an outlet, which align with the outlet of the return duct and the inlet of the inlet duct, respectively, when the refrigeration module is mounted within the refrigeration module chamber, to thereby form a refrigerated air path between the evaporator and the cooking chamber.

The Rejection

Appellants seek review of the Examiner's rejection of claims 1-4 and 16-18 under 35 U.S.C. § 102(e) as being anticipated by Clark (US 6,497,276 B2, issued December 24, 2002).

SUMMARY OF DECISION

We REVERSE.

OPINION

To establish anticipation, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001).

Appellants point out that Clark's condenser 90 is mounted not in the drawer 68 along with the evaporator 78 and compressor 76, but to the exterior of the back wall 26 of the refrigerator-oven. Reply Br. 4. Thus, according to Appellants, Clark does not anticipate the subject matter of claim 1 because Clarke's combination refrigerator-oven lacks "a refrigeration module comprising a compressor, condenser, evaporator, and base on which the compressor, condenser, and evaporator are mounted to form a module," as called for in the claim. Reply Brief 4 and 6.

The Examiner contends that claim 1 does not require that the compressor, the condenser, and the evaporator all be directly mounted to a single base. Answer 4. According to the Examiner, claim 1 merely requires that the condenser, evaporator, and compressor be "at least indirectly connected or mounted to the same base." Answer 5. The Examiner finds that Clark satisfies this requirement because Clark's "condenser 90 and the evaporator 78 are connected to and mounted to the compressor 76 (and thus also to its base) via interconnecting pipes as shown in Figure 3 of Clark." *Id.*

In light of the stated positions of Appellants and the Examiner, the dispositive issue before us is whether Appellants have demonstrated the Examiner erred in finding that Clark discloses "a refrigeration module

comprising a compressor, condenser, evaporator, and base on which the compressor, condenser, and evaporator are mounted to form a module,” as called for in claim 1. Based on the facts enumerated below, which are supported by a preponderance of the evidence, we find that Clark does not satisfy the claim limitation in question and thus does not anticipate the subject matter of claim 1 or claims 2-4 and 16-18 depending from claim 1.

Appellants’ Specification discloses a modular refrigeration unit 20 comprising a base 120 on which are mounted, *inter alia*, a compressor 122, condenser assembly 124, and an evaporator assembly 126. Specification, para. 57; Figure 6. According to Appellants’ Specification, “[s]ince all of the components for the modular refrigeration unit 20 are mounted on the base 120, the modular refrigeration unit 20 is easily slid into and out of the refrigeration unit chamber 16 to simplify the installation and maintenance of the modular refrigeration unit 20.” *Id.*

Consistent with the disclosure in Appellants’ Specification and drawings, we construe the term “mounted” as used in claim 1 in accordance with its ordinary and customary meaning as placed, fixed, or fastened on a support or backing. *Webster’s New World Dictionary* 930 (David B. Guralnik ed., 2nd Coll. Ed., Simon & Schuster, Inc. 1984).

Clark discloses locating the compressor 76 and evaporator 78 in a drawer 68 slidably mounted below enclosed cooking chamber 28. Clark, col. 3, ll. 54-57 and col. 4, ll. 10-11; Clark, Figure 2. Clark discloses condenser 90 of refrigeration unit 70 mounted on an outer surface 92 of the back one of the vertical side walls 26. Clark, col. 4, ll. 29-33; Clark, Figure 3. Clark’s condenser 90 is connected fluidically to the evaporator and compressor (col. 4, ll. 37-40 and 44-45). While Clark’s condenser 90 is

connected via fluid lines to the compressor 76 and evaporator 78, the condenser is not affixed, fastened or “mounted” to either of these components or to the drawer 68 or any other base or support on which the compressor 76 or evaporator 78 is mounted. Rather, Clark explicitly discloses that the condenser 90 is mounted to the back wall of the refrigerator-oven.

In light of the above, Clark does not disclose a base on which all of the compressor, condenser, and evaporator are mounted to form a module, as required in claim 1.

CONCLUSION OF LAW

Appellants have demonstrated the Examiner erred in finding that Clark discloses “a refrigeration module comprising a compressor, condenser, evaporator, and base on which the compressor, condenser, and evaporator are mounted to form a module,” as called for in claim 1. We cannot sustain the rejection of claim 1 or claims 2-4 and 16-18, which depend from claim 1, as being anticipated by Clark.

DECISION

The Examiner’s decision is:

REVERSED

vsh

Appeal 2008-2706
Application 09/977,775

WHIRLPOOL PATENTS COMPANY - MD 0750
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